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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

VICTOR MANUEL MARTINEZ
WARIO, an individual,

Plaintiff,

vs.

CITY OF WHITTIER, a public entity;
COUNTY OF LOS ANGELES, a
public entity; AUSTIN CASTRO, an
individual; CYNTHIA GUZMAN, an
individual; KAREN ZARAGOZA, an
individual; and G4S SECURE
SOLUTIONS, INC., a Florida
corporation,

Defendants.

CASE NO.: 2:24-cv-03580-PA-JPR

(Assigned to Judge Percy Anderson)

**SECOND AMENDED COMPLAINT
FOR DAMAGES AND CLAIMS FOR
RELIEF:**

- 1. VIOLATION OF CIVIL RIGHTS
(42 U.S.C. § 1983): UNLAWFUL
SEARCH AND SEIZURE;**
- 2. VIOLATION OF CIVIL RIGHTS
(42 U.S.C. § 1983): *MONELL*
CLAIM; and**
- 3. NEGLIGENCE.**

DEMAND FOR JURY TRIAL

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INTRODUCTION

1. Plaintiff Victor Manuel Martinez Wario's claims arise out of the wrongful arrest and imprisonment Mr. Wario suffered at the hands of the Whittier Police Department (a department of Defendant City of Whittier), Whittier Police Officer Austin Castro, jailers Cynthia Guzman and Karen Zaragoza, G4S Secure Solutions, Inc. (the corporate employer of Whittier's jailers) and the Los Angeles County Sheriff's Department (a department of Defendant County of Los Angeles) in March 2023. As outlined below, what began as a simple traffic stop turned into a five-day nightmare of incarceration with no probable cause. As a result, Mr. Wario suffered, and continues to suffer, emotional and mental trauma. He also missed time at work and was unable to provide care to his disabled fiancée.

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SUMMARY OF FACTS

2. On the evening of March 12, 2023, at approximately 8:40 p.m., Mr. Wario was pulled over by Officer Austin Castro of the Whittier Police Department for a minor traffic infraction. During the traffic stop, Officer Castro erroneously determined that Mr. Wario had an active warrant and placed him under arrest. At all times during the interaction, Mr. Wario was fully compliant with officer directions and instructions, but he informed the officers that he did not have any pending warrants or criminal cases. Nonetheless he was booked and processed into the Whittier Police Department jail.

3. At some point in the evening, during the booking process, the Defendant officer and Defendant jailers informed Mr. Wario that his warrant was for an old case in which he was convicted of child molestation (California Penal Code § 288(a)). Mr. Wario again adamantly told them that they had the wrong person and that his only criminal history involved misdemeanor driving under the influence offenses more than seven years previously. It was later discovered that the child-molestation case in question was Los Angeles County Case No. BA393467, with a conviction date of

1 September 21, 2012. On information and belief, the actual defendant in that case had a
2 similar name to Mr. Wario's and the same date of birth. After that individual's
3 conviction, he failed to check in with the probation department following his conviction
4 and failed to register as a sex offender in accordance with California Penal Code § 290.
5 Mr. Wario was held on no bail.

6 4. Defendants' mistaken identity should have been immediately realized.
7 Indeed, at approximately 8:43 pm on March 12, 2023, during the traffic stop, Officer
8 Castro was provided information by the WPD dispatcher indicating that Mr. Wario
9 "may be the same as CII/A32143612." (A CII number is an individual's Criminal
10 Identification Index number, a unique identifier linked to the person's fingerprints.)
11 That CII number belongs to the individual convicted of child molestation who Castro
12 wrongly believed Mr. Wario to be. Additionally, at 10:20 pm on March 12, 2023, the
13 booking officers who, upon information and belief were Officer Castro, jailer Guzman,
14 and jailer Zaragoza, again noted they mistakenly believed Mr. Wario to have CII
15 number A32143612, and proceeded to book him based on that mistaken identity.
16 However, this action was unreasonable and a violation of the Fourth Amendment
17 because the Defendants also had in their possession Mr. Wario's actual CII number, as
18 a result of submitting his fingerprints to several law enforcement databases. Both the
19 FBI and Homeland Security fingerprint searches that Defendants ran on March 12,
20 2023, successfully determined Mr. Wario's CII Number to be A24656747. Neither
21 Officer Castro, nor jailer Guzman, nor jailer Zaragoza, compared the CII Numbers to
22 determine if Mr. Wario was, in fact, the nonparty convicted child molester of a similar
23 name and same date of birth, choosing instead to ignore Mr. Wario's protests, in
24 violation of his constitutional rights. The arrest of Mr. Wario was not performed by any
25 County of Los Angeles employee.

26 5. After spending approximately forty-eight hours in custody at the Whittier
27 jail, Mr. Wario was transferred to the custody of the Los Angeles Sheriff's Department
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1 and was placed in Men's Central Jail. There, he was assigned special housing for
2 custodies with child-molestation cases and given a specially colored jumpsuit indicating
3 his status as a sex offender. A wristband was placed on his wrist also showing that his
4 case involved child molestation. Because of his perceived status as a convicted child
5 molester, Mr. Wario was in serious jeopardy of being attacked by fellow inmates.

6 6. On the morning of March 15, 2023, several hours after he was booked into
7 the Men's Central Jail, Mr. Wario was taken by the Los Angeles County Sheriff's
8 Department to the Los Angeles County Criminal Courts Building for arraignment.
9 There he had a short meeting with his attorney, who promptly advised the court that it
10 had the wrong defendant. Judge Mary Lou Villar set bail at \$30,000, but would not
11 release Mr. Wario. She ordered a fingerprint expert to appear in court the following
12 week to take Mr. Wario's fingerprints and verify his identity. On the following day,
13 March 16, 2023, the Deputy District Attorney assigned to the case obtained the booking
14 photo of the actual defendant and determined that it was not Mr. Wario.

15 7. The next day, March 17, 2023, Mr. Wario was brought back to court and,
16 following a short hearing, was ordered released by Judge Villar. Despite the court's
17 order, it took an additional eight hours for Mr. Wario to be let out. This was a full five
18 days after his arrest.

19 8. During his unlawful confinement, Mr. Wario missed time at work and was
20 unable to care for his disabled fiancée, Sharlene Luckett. Additionally, as a result of his
21 ordeal, Mr. Wario suffered, and continues to suffer, extreme emotional distress,
22 sleeplessness, anxiety, and mental anguish.

23 9. On September 8, 2023, Mr. Wario, through counsel, filed a Government
24 Tort Claim with the City of Whittier. A notice of rejection of that claim was served on
25 Mr. Wario's counsel on October 31, 2023.

26 10. On September 8, 2023, Mr. Wario, through counsel, filed a Government
27 Tort Claim with the County of Los Angeles. A notice of denial of that claim was served
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1 on Mr. Wario's counsel on November 8, 2023.

2 **PARTIES**

3 11. At all relevant times, Plaintiff Victor Manuel Martinez Wario was an
4 individual residing in the City of Norwalk, County of Los Angeles, State of California.

5 12. At all relevant times, Defendant City of Whittier was a governmental entity
6 organized and existing under the laws of the State of California in the County of Los
7 Angeles. At all relevant times, the Whittier Police Department (WPD) was a department
8 of Defendant City of Whittier. At all relevant times, WPD was a law-enforcement
9 agency responsible for the training and supervision of police officers.

10 13. At all relevant times, Defendant County of Los Angeles was a
11 governmental entity organized and existing under the laws of the State of California. At
12 all relevant times, the Los Angeles County Sheriff's Department (LASD) was a
13 department of Defendant County of Los Angeles. At all relevant times, LASD was a
14 law-enforcement agency responsible for the training and supervision of deputies.

15 14. Defendant City of Whittier is responsible for the actions, omissions,
16 policies, procedures, practices, and customs of its various agents and agencies,
17 including WPD and its agents and employees. At all relevant times, Defendant City of
18 Whittier was responsible for assuring that the actions, omissions, policies, procedures,
19 practices, and customs of WPD and its employees and agents complied with the laws
20 of the United States and those of the State of California.

21 15. Defendant County of Los Angeles is responsible for the actions, omissions,
22 policies, procedures, practices, and customs of its various agents and agencies,
23 including LASD and its agents and employees. At all relevant times, Defendant County
24 of Los Angeles was responsible for assuring that the actions, omissions, policies,
25 procedures, practices, and customs of LASD and its employees and agents complied
26 with the laws of the United States and those of the State of California. The City of
27 Whittier, G4S Secure Solutions Inc, and the Whittier Police Department are not agents,
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1 contractors or employees of the County of Los Angeles.

2 16. At all relevant times, Officer Austin Castro (“Defendant Castro”) was an
3 officer with for the Whittier Police Department (WPD) who, while acting under color of
4 law, committed the violations as alleged here. For purposes of Plaintiff’s claims directed
5 against Defendant Castro brought pursuant to 42 U.S.C. § 1983, he is named in his
6 individual capacity.

7 17. At all relevant times, Defendant Cythia Guzman (“Defendant Guzman”) provides
8 services as a jailer for WPD through her employment by G4S Secure
9 Solutions, Inc., and she, while acting under color of law and performing a public function,
10 committed the violations as alleged herein. For purposes of Plaintiff’s claims directed
11 against Defendant Guzman brought pursuant to 42 U.S.C. § 1983, she is named in her
12 individual capacity.

13 18. At all relevant times, Defendant Karen Zaragoza (“Defendant Zaragoza”) provides
14 services as a jailer for WPD through her employment by G4S Secure
15 Solutions, Inc., and she, while acting under color of law and performing a public
16 function, committed the violations as alleged herein. For purposes of Plaintiff’s claims
17 directed against Defendant Zaragoza brought pursuant to 42 U.S.C. § 1983, she is
18 named in her individual capacity.

19 19. G4S Secure Solutions, Inc. (“G4S”) is a Florida corporation doing business
20 in California and providing jailing services for WPD, which while acting under color of
21 law and performing a public function, committed the violations as alleged here. For
22 purposes of Plaintiff’s claims directed against Defendant G4S brought pursuant to 42
23 U.S.C. § 1983, it is named in its individual capacity.

24 20. Plaintiff is informed and believes, and based upon such information and
25 belief, alleges that each Defendant sued herein is contractually, strictly, or vicariously
26 liable or otherwise legally responsible in some manner for each and every act, omission,
27 obligation, event, or happening set forth in this Second Amended Complaint.
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1 21. Plaintiff is informed and believes and thereon alleges that at all relevant
2 times, each of the Defendants, in addition to acting for himself, herself, or itself and on
3 his, her, or its own behalf, is and was acting as the agent, servant, employee, and
4 representative of, and with the knowledge, consent, and permission of each and all of
5 the Defendants.

6 22. Plaintiff further alleges that the acts of each of the Defendants were fully
7 ratified by each and all other Defendants. Specifically, and without limitation, Plaintiff
8 alleges on information and belief that the actions, failures to act, and breaches alleged
9 herein that are attributed to one or more of the Defendants were approved, ratified, and
10 done with the cooperation and knowledge of each and all of the other Defendants.

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12 **FIRST CLAIM FOR RELIEF**
13 **VIOLATION OF CIVIL RIGHTS (42 U.S.C. § 1983)**
14 **UNREASONABLE SEARCH AND SEIZURE**
15 ***(Plaintiff against all Defendants)***

16 23. Plaintiff realleges and incorporates by reference the allegations contained
17 in all preceding paragraphs of this Second Amended Complaint, as though fully set
18 forth herein.

19 24. As alleged herein, Defendants falsely arrested and imprisoned Plaintiff
20 without justification or probable cause. Defendants' unjustified actions deprived
21 Plaintiff of his right to be secure in his person against unreasonable search and seizure
22 as guaranteed under the Fourth and Fourteenth Amendments to the Constitution of the
23 United States.

24 25. Based on the facts readily available and known to Defendants, no
25 reasonable conclusion could be drawn that such an arrest and confinement was
26 reasonable. At all relevant times, Plaintiff was compliant and followed Defendants'
27 instructions. He did not have any outstanding warrants or wants and was not on
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1 probation or parole, nor was he in violation thereof. No objective facts readily available
2 and known to Defendants could have reasonably led them to conclude that Plaintiff was
3 a fugitive from justice stemming from a 2012 child-molestation case. Defendants knew
4 Plaintiff asserted he had no such conviction or outstanding warrants, and Defendants
5 had before them the proper CII fingerprint data to immediately verify Plaintiff was not,
6 in fact, the individual of a similar name involved in the 2012 child-molestation case.
7 That they did not and falsely arrested and imprisoned Plaintiff for five (5) days was a
8 clear violation of his Fourth Amendment rights. As a result of the foregoing, Plaintiff
9 suffered great emotional and mental distress. Further, Defendants' actions violated their
10 training and standard police-officer training.

11 26. Defendants, under color of law, intentionally, recklessly, negligently,
12 unlawfully, and with malice, fraud, and oppression violated Plaintiff's civil rights and
13 his right to be secure in his person against unreasonable search and seizure as
14 guaranteed to Plaintiff under the Fourth and Fourteenth Amendments.

15 27. Plaintiff further alleges that Defendants, with deliberate indifference to and
16 reckless disregard for the personal liberty and well-being of Plaintiff, and in violation
17 of the Fourth and Fourteenth Amendments, committed or allowed to be committed acts
18 that deprived Plaintiff of his constitutional rights.

19 28. Due to the conduct of Defendants, and each of them, Plaintiff has suffered
20 injury and is entitled to general damages and special damages, all in sums to be proved
21 at trial. Due to the conduct of Defendants, and each of them, Plaintiff has been required
22 to incur attorney's fees and will continue to incur attorney's fees, all to Plaintiff's
23 damage in a sum to be proved at trial and recoverable under 42 U.S.C. § 1988.

24 29. Defendants acted with a conscious disregard of Plaintiff's rights conferred
25 upon him by Section 1983, Title 42 of the United States Code; the Fourth Amendment
26 to the United States Constitution; and California Civil Code § 3333, by intentionally
27 and unnecessarily causing Plaintiff to be falsely imprisoned.
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1 30. The conduct of Defendants constitutes malice, oppression, or fraud
2 entitling Plaintiff to punitive damages against the individual Defendants in an amount
3 suitable to punish and set examples of these individual Defendants.
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5 **SECOND CLAIM FOR RELIEF**

6 **VIOLATION OF CIVIL RIGHTS (42 U.S.C. § 1983)**

7 **MONELL CLAIM**

8 *(Plaintiff against Defendants City of Whittier and County of Los Angeles)*

9 31. Plaintiff realleges and incorporates by reference the allegations contained
10 in all the preceding paragraphs of this Second Amended Complaint as though fully set
11 forth herein.

12 32. At all relevant times, the Defendant police officers and deputies acted
13 under color of law. The acts of the Defendant police officers and deputies violated
14 Plaintiff's rights under the United States Constitution and its Fourth and Fourteenth
15 Amendments.

16 33. Upon information and belief, the final policymakers, acting under color of
17 law, had final policymaking authority concerning the acts of Defendants City of
18 Whittier and County of Los Angeles, and their employees and agents. Defendants City
19 of Whittier and County of Los Angeles On information and belief, the final
20 policymakers knew of and specifically approved of the Defendant police officers' and
21 deputies' acts.

22 34. On information and belief, final policymakers have determined that the
23 acts of the Defendant officers and deputies were "within policy."

24 35. Accordingly, Defendants City of Whittier and County of Los Angeles are
25 liable to Plaintiff for compensatory damages under 42 U.S.C. § 1983.

26 36. The training policies of Defendants were not adequate to train officers and
27 deputies to handle the usual and recurring situations with which they must deal.
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1 37. Defendants City of Whittier and County of Los Angeles were deliberately
2 indifferent to the obvious consequences of their failures to train their officers and
3 deputies adequately.

4 38. The failures of Defendants City of Whittier and County of Los Angeles to
5 provide adequate training caused the deprivation of Plaintiff's rights by the Defendant
6 police officers and deputies; that is, Defendant City Whittier's and Defendant County
7 of Los Angeles's failures to train are so closely related to the deprivation of Plaintiff's
8 rights as to be the moving force that caused the ultimate injury.

9 39. On information and belief, Defendants City of Whittier and County of Los
10 Angeles failed to train the Defendant police officers and deputies properly and
11 adequately. By reason of the aforementioned acts and omissions, Plaintiff has been
12 injured.

13 40. Accordingly, Defendants City of Whittier and County of Los Angeles are
14 liable to Plaintiff for compensatory damages under 42 U.S.C. § 1983.

15 41. The Defendant police officers and deputies acted according to expressly
16 adopted official policies or longstanding practices or customs of Defendants City of
17 Whittier and County of Los Angeles.

18 42. On information and belief, the Defendant police officers and deputies were
19 not disciplined, reprimanded, retrained, suspended, or otherwise penalized in
20 connection with Plaintiff's injuries.

21 43. Defendant City of Whittier's and Defendant County of Los Angeles's
22 policymakers and supervisors maintained, inter alia, the following unconstitutional
23 customs, practices, and policies:

24 (a) Arresting and imprisoning individuals without a warrant or probable
25 cause, violating a person's rights under the Fourth and Fourteenth
26 Amendments to the Constitution of the United States;

27 (b) Providing inadequate training regarding search and seizure;
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- 1 (c) Employing and retaining as police officers and deputies individuals
2 such as the Defendant police officers and deputies, whom Defendants
3 City of Whittier and County of Los Angeles at all times material herein
4 knew or reasonably should have known had dangerous propensities for
5 abusing their authority and arresting and confining individuals without
6 a warrant or probable cause;
- 7 (d) Inadequately supervising, training, controlling, assigning, and
8 disciplining City of Whittier and County of Los Angeles officers and
9 deputies, and other personnel, including the Defendant police officers
10 and deputies, whom Defendants City of Whittier and County of Los
11 Angeles knew or in the exercise of reasonable care should have known
12 had the aforementioned propensities and character traits;
- 13 (e) Maintaining grossly inadequate procedures for reporting, supervising,
14 investigating, reviewing, disciplining, and controlling misconduct by
15 the Defendant officers and deputies;
- 16 (f) Failing to adequately discipline City of Whittier and County of Los
17 Angeles police officers and deputies, including the Defendant police
18 officers and deputies, for the above-referenced categories of
19 misconduct, including by employing mere “slap-on-the-wrist”
20 discipline that is so slight as to be out of proportion to the magnitude of
21 the misconduct, and other inadequate discipline that is tantamount to
22 encouraging misconduct;
- 23 (g) Announcing that the use of unjustified arrests is “within policy,”
24 including conduct later determined to be unconstitutional;
- 25 (h) Even when a search and seizure is determined in court to be
26 unconstitutional, refusing to discipline, terminate, or retrain the officers
27 or deputies involved;
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1 44. By reason of the aforementioned acts and omissions, Plaintiff has suffered
2 injuries and is entitled to damages in an amount to be proved at trial.

3 45. Defendants City of Whittier, County of Los Angeles, together with various
4 other officials, whether named or unnamed, had either actual or constructive knowledge
5 of the deficient policies, practices, and customs alleged in the paragraphs above. Despite
6 having knowledge as stated above, these Defendants condoned, tolerated, and, through
7 actions and inactions, thereby ratified, such policies. Defendants also acted with
8 deliberate indifference to the foreseeable effects and consequences of these policies
9 with respect to the constitutional rights of Plaintiff and other individuals similarly
10 situated.

11 46. By perpetrating, sanctioning, tolerating, and ratifying the outrageous
12 conduct and other wrongful acts, the Defendant police officers and deputies acted with
13 intentional, reckless, and callous disregard for Plaintiff's constitutional rights. Further,
14 the policies, practices, and customs implemented, maintained, and still tolerated by
15 Defendants City of Whittier and County of Los Angeles were affirmatively linked to
16 and were a significantly influential force behind Plaintiff's injuries.

17 47. Accordingly, Defendants City of Whittier and County of Los Angeles are
18 each liable to Plaintiff for compensatory damages under 42 U.S.C. § 1983.
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20 **THIRD CLAIM FOR RELIEF**

21 **NEGLIGENCE**

22 ***(Plaintiff against all Defendants)***

23 48. Plaintiff realleges and incorporates by reference the allegations contained
24 in the preceding paragraphs of this Second Amended Complaint, as though fully set
25 forth herein.

26 49. Defendants had a duty to use reasonable care in their interactions with
27 Plaintiff and to ensure that he was free from foreseeable risks of harm caused by
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1 Defendants' conduct. Defendants had a duty not to expose Plaintiff to reasonably
2 foreseeable risks of harm, including, but not limited to, harm caused by arresting and
3 imprisoning Plaintiff without a warrant or probable cause.

4 50. At all relevant times, no probable cause existed to arrest and confine
5 Plaintiff. At all relevant times, Defendants had no reasonable basis to believe that
6 Plaintiff had any outstanding warrants or wants or that Plaintiff was on probation or
7 parole or was in violation thereof.

8 51. Based on the facts readily available and known to Defendants, no
9 reasonable conclusion could be drawn that probable cause existed to arrest and confine
10 Plaintiff. All objective facts readily available and known to Defendants could not have
11 reasonably led the Defendant police officers or deputies to conclude that Plaintiff was
12 a fugitive from justice.

13 52. In light of the foregoing facts, knowledge, and circumstances, no
14 reasonable person or reasonable officer or deputy could have believed that probable
15 cause existed to arrest and incarcerate Plaintiff. Moreover, in light of the foregoing, no
16 material ambiguities existed and no reasonable person could have believed that Plaintiff
17 had committed any offense or that Plaintiff was sought by authorities. Accordingly, no
18 reasonable person or reasonable officer or deputy, acting on these facts, could sensibly
19 or reasonably conclude that probable cause existed to arrest and imprison Plaintiff.

20 53. Defendants had a duty to use reasonable care in their interactions with
21 Plaintiff and to ensure that Plaintiff was free from foreseeable risks of harm caused by
22 Defendants' conduct while interacting with Plaintiff. Defendants had a duty not to
23 expose Plaintiff to reasonably foreseeable risks of deprivation of his rights.

24 54. Defendants breached their duty of care owed to the public and especially
25 to Plaintiff by failing to act with the requisite care required, and Defendants caused
26 Plaintiff to suffer injuries including but not limited to mental and emotional anguish.
27 Defendants breached their duty despite knowing that Plaintiff was innocent of any
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1 criminal activity.

2 55. Defendants knew, or in the exercise of ordinary and reasonable care should
3 have known, that Defendants' conduct posed a significant risk of harm to Plaintiff, as it
4 did when Defendants interacted with Plaintiff and caused him to be unlawfully arrested
5 and incarcerated and to suffer harm that would not have otherwise occurred but for the
6 unreasonable conduct of Defendants. Defendants breached the duty of care owed to the
7 public and to Plaintiff by failing to act with the requisite care and causing Plaintiff to
8 suffer an unlawful arrest and confinement.

9 56. Defendants City of Whittier and County of Los Angeles are vicariously
10 liable for the wrongful acts of their officers and deputies under section 815.2(a) of the
11 California Government Code, which provides that a public entity is liable for the
12 injuries caused by its employees within the scope of the employment if the employee's
13 acts would subject him or her to liability. In the alternative, should G4S Secure
14 Solutions be found to be an independent contractor of one of the public entity
15 Defendants, said Defendants are liable for the torts of G4S employees in the scope of
16 employment pursuant to Gov. Code 815.4.

17 57. As a direct and proximate result of Defendants' conduct, Plaintiff has
18 suffered injury to his mind, mental anguish, and emotional distress and is entitled to
19 past and future special damages and past and future general damages in amounts
20 according to proof.

21 **PRAYER FOR RELIEF**

22 **WHEREFORE**, Plaintiff VICTOR MANUEL MARTINEZ WARIO prays for
23 judgment as follows:

- 24 1. For general damages in an amount to be determined by proof at trial;
25 2. For special damages in an amount to be determined by proof at trial;
26 3. For punitive and exemplary damages as allowed by law;
27 4. For costs of suit;
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5. For reasonable attorney's fees and costs as provided by statute; and
6. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff Victor Manuel Martinez Wario hereby demands a jury trial.

DATED: October 1, 2024

GAMMILL LAW, APC

By: 

DAVID W. GAMMILL
Attorney for Plaintiff
VICTOR MANUEL MARTINEZ
WARIO